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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTOPHER RIFKIND,

Defendant and Appellant.

D054110

(Super. Ct. No. SCE262094)

APPEAL from a judgment of the Superior Court of San Diego County, Herbert J. Exarhos, Judge. Affirmed.

In 2006 Christopher Rifkind entered a negotiated guilty plea to committing lewd acts upon a minor under the age of 14 (Pen. Code, § 288, subd. (a)). The prosecution agreed to a sentencing bid of three years, the lower term for the offense. The trial court placed Rifkind on formal probation for five years, conditioned, among other things, on him serving 365 days in jail.

In 2008 Rifkind admitted violating his probation. The court revoked probation and sentenced Rifkind to six years in prison—the middle term for committing lewd acts on a minor under the age of 14. Rifkind's subsequent motion to withdraw his admissions to the probation violations was denied.

BACKGROUND

In 2006 Rifkind licked the vagina of his four-year-old daughter. After pleading guilty, he was placed on probation for five years with various conditions, including no use of alcohol; no association with minors; no possession of a camera; no use of computer chat rooms; and no possession of a deadly weapon.

In an interview with his probation officer on May 23, 2007, Rifkind related that he had stayed overnight at a Buddhist monastery in a dormitory-style room and that a family with two children also had spent the night in the same dormitory. During the interview, Rifkind surrendered his laptop computer. Later that day, the probation officer searched Rifkind's residence and seized a camera, an external hard drive for the computer and DVDs which contained pornography. The hard drive was turned over to the FBI for a forensic examination.

On October 31 Rifkind told his probation officer that he had consumed alcohol while in the presence of another adult.

Rifkind maintained a MySpace Web page and visited numerous Web sites devoted to neo-paganism, new age esoterica, witchcraft and similar subjects.

On February 12, 2008, the probation officer arrested Rifkind after searching the trunk of the vehicle he was driving. The trunk contained two martial arts batons or swords.

On February 19 Rifkind waived an evidentiary hearing and admitted he violated probation by using alcohol, associating with minors (the monastery incident) and using computer chat rooms. The court formally revoked probation.

The court sentenced Rifkind to six years in prison.

On June 25 Rifkind filed a motion to vacate the judgment and to allow him to withdraw his admissions to the probation violations.

On September 5 the court denied the motion after a hearing.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible but not arguable issues: (1) whether Rifkind's guilty plea was entered in accordance with the requirements of *Boykin v. Alabama* (1969) 395 U.S. 238 and *In re Tahl* (1969) 1 Cal.3d 122; (2) whether Rifkind's admissions to the probation violations were entered in accordance with the *Boykin/Tahl* requirements and whether the advice of his counsel to enter the admissions constituted ineffective assistance of counsel; (3) whether the trial court had jurisdiction to rule on Rifkind's motion to vacate the judgment; and (4)

assuming the court had jurisdiction, whether the court abused its discretion in denying the motion.

We granted Rifkind permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, and *Anders v. California, supra*, 386 U.S. 738, including the possible issues referred to by appellate counsel, has disclosed no reasonably arguable appellate issues. Rifkind has been adequately represented by counsel on this appeal.

DISPOSITION

The judgment is affirmed.

McINTYRE, J.

WE CONCUR:

HUFFMAN, Acting P. J.

NARES, J.